

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY, CALIFORNIA
AND RECORD OF ACTION**

61

May 20, 2003

FROM: ALAN K. MARKS
County Counsel

**SUBJECT: APPROVE CONTRACT WITH THE LAW FIRM BERGER & NORTON AS
SPECIAL CONSULTANTS FOR THE COLONIES PARTNERS V. SAN
BERNARDINO COUNTY FLOOD CONTROL DISTRICT, CASE NO. RCV
061971**

RECOMMENDATION: Acting as the governing body of the Flood Control District, approve contract with Berger & Norton as Special Consultants in connection with The Colonies Partners v. San Bernardino County Flood Control District.

BACKGROUND INFORMATION: On or about March 22, 2002, San Bernardino County Flood Control District was served with a Complaint for Declaratory Relief and Quiet Title filed by the Colonies Partners, LP ("COLONIES"). The Colonies is a local development partnership apparently attempting to construct residential and commercial developments in a Cucamonga Creek area in the City of Upland on land which the Flood Control District has several easements for flood control and water conservation purposes.

The court has set a trial date for June 2, 2003 at which time the District will be required to present its defense. In order to effectively do so, the District requires the assistance of a real estate expert as a consultant and possible expert witness. The firm of Berger & Norton has been selected after various interviews with Thomas Freiberg a member of the law firm as well as consultation with the counties of Los Angeles, Riverside and Orange. The firm of Berger & Norton, and in particular Mr. Thomas Freiberg, possesses the necessary skill and expertise to assist the District in defending its interest in the present matter.

REVIEW BY OTHERS: This item was reviewed by San Bernardino County Flood Control District (Ken Miller, Director) on May 7, 2003; the County Administrative Office (Tracy Lindsay and Tom Forster, Administrative Analysts) on May 14, 2003 and County Counsel (Charles S. Scolastico, Deputy County Counsel) on May 14, 2003.

FINANCIAL IMPACT: The cost of consultant services is estimated to be approximately \$50,000.00. Funds are available in the Flood Control District Zone One Budget for FY 2002-03 (RFA 091 091 200 2445) .

SUPERVISORIAL DISTRICT(S): All

PRESENTER: Alan K. Marks, County Counsel, 387-5459
(219409)

Record of Action of the Board of Supervisors

61